

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN L. CALVERT,

Petitioner,

v.

ORDER

CHARLES A. DANIELS,

Civil No. 07-222-JE

Respondent.

HAGGERTY, Chief Judge:

Magistrate Judge Jelderks referred to this court a Findings and Recommendation [10] in this matter. The Findings and Recommendation recommends granting the Petition for Writ of Habeas Corpus [2], and entering judgment requiring respondent to restore petitioner's good time credits and lost privileges unless within ninety days respondent holds a new hearing which comports with Due Process.

DISCUSSION

When a party objects to any portion of a Findings and Recommendation, the district court must conduct a de novo review. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v. Commodore Bus. Mach. Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Here, there are no objections to the factual summary or the legal analysis presented in the Findings and Recommendation.

Petitioner, appearing pro se, objects only to the provision for rehearing within ninety days, asserting that two witnesses that respondent failed to produce at the original hearing are no longer employed at FCI-Sheridan, and that thus "the Petitioner's Due Process Rights Violation cannot be cured." Pet. Resp. at 1. The Due Process violation here—failure to produce or otherwise explain the absence of witnesses at the original hearing—is remedied by the grant of the writ. Any speculative future Due Process violation that may occur at a new hearing is beyond the scope of the current petition.

CONCLUSION

The court adopts the Findings and Recommendation [10]. The Writ of Habeas Corpus [2] is GRANTED.

IT IS SO ORDERED.

DATED this 10 day of October, 2007.

/s/ Ancer L. Haggerty

Ancer L. Haggerty
United States District Judge